

Introduced by Senator Hancock

February 19, 2010

An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1320, as introduced, Hancock. Transit fare evasion and passenger misconduct: administrative adjudication.

Existing law provides that it is an infraction, punishable by a fine not to exceed \$250 and by specified community service, to evade the payment of any fare of, or to engage in passenger misconduct on or in a facility or vehicle of a public transportation system. Existing law authorizes the City and County of San Francisco and the Los Angeles County Metropolitan Transportation Authority to adopt and enforce an ordinance to impose and enforce civil administrative penalties for fare evasion or passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties, with specified administrative adjudication procedures for the imposition and enforcement of the administrative penalties. Fare evasion and passenger misconduct violation penalties are deposited in the general fund of the City and County of San Francisco or the County of Los Angeles, as applicable.

This bill would authorize the Alameda-Contra Costa Transit District to adopt and enforce a similar administrative adjudication ordinance. Fare evasion and passenger misconduct violation penalties would be deposited in the general fund of the district.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 640 of the Penal Code is amended to read:

640. (a) Any of the acts described in subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment, when committed on or in any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation.

(3) A leased or rented facility or vehicle for which any of the entities described in paragraph (1) or (2) incur costs of cleanup, repair, or replacement as a result of any of those acts.

(b) (1) Evasion of the payment of a fare of the system.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) Playing sound equipment on or in a system facility or vehicle.

(4) Smoking, eating, or drinking in or on a system facility or vehicle in those areas where those activities are prohibited by that system.

(5) Expectorating upon a system facility or vehicle.

(6) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(7) Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a public transit facility or vehicle.

(8) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(9) (A) Willfully blocking the free movement of another person in a system facility or vehicle.

(B) This paragraph (9) shall not be interpreted to affect any lawful activities permitted or first amendment rights protected under the laws of this state or applicable federal law, including,

1 but not limited to, laws related to collective bargaining, labor
2 relations, or labor disputes.

3 (10) Skateboarding, roller skating, bicycle riding, or roller
4 blading in a system facility, vehicle, or parking structure. This
5 paragraph does not apply to an activity that is necessary for
6 utilization of the transit facility by a bicyclist, including, but not
7 limited to, an activity that is necessary for parking a bicycle or
8 transporting a bicycle aboard a transit vehicle, if that activity is
9 conducted with the permission of the transit agency in a manner
10 that does not interfere with the safety of the bicyclist or other
11 patrons of the transit facility.

12 (11) (A) Unauthorized use of a discount ticket or failure to
13 present, upon request from a transit system representative,
14 acceptable proof of eligibility to use a discount ticket, in
15 accordance with Section 99155 of the Public Utilities Code and
16 posted system identification policies when entering or exiting a
17 transit station or vehicle. Acceptable proof of eligibility must be
18 clearly defined in the posting.

19 (B) In the event that an eligible discount ticket user is not in
20 possession of acceptable proof at the time of request, any citation
21 issued shall be held for a period of 72 hours to allow the user to
22 produce acceptable proof. If the proof is provided, the citation
23 shall be voided. If the proof is not produced within that time period,
24 the citation shall be processed.

25 (c) Notwithstanding subdivision (a), the City and County of San
26 Francisco—~~and, the Los Angeles County Metropolitan~~
27 ~~Transportation Authority, and the Alameda-Contra Costa Transit~~
28 ~~District~~ may enact and enforce an ordinance providing that any of
29 the acts described in subdivision (b) on or in a facility or vehicle
30 described in subdivision (a) for which the City and County of San
31 Francisco—~~or, the Los Angeles County Metropolitan Transportation~~
32 ~~Authority, or the Alameda-Contra Costa Transit District~~ has
33 jurisdiction shall be subject only to an administrative penalty
34 imposed and enforced in a civil proceeding. The ordinance for
35 imposing and enforcing the administrative penalty shall be
36 governed by Chapter 8 (commencing with Section 99580) of Part
37 11 of Division 10 of the Public Utilities Code and shall not apply
38 to minors.

39 SEC. 2. Section 99580 of the Public Utilities Code is amended
40 to read:

1 99580. (a) Pursuant to subdivision (c) of Section 640 of the
2 Penal Code, the City and County of San Francisco ~~and~~, the Los
3 Angeles County Metropolitan Transportation Authority, *and the*
4 *Alameda-Contra Costa Transit District* may enact and enforce an
5 ordinance to impose and enforce an administrative penalty for any
6 of the acts described in subdivision (b). The ordinance shall include
7 the provisions of this chapter and shall not apply to minors.

8 (b) (1) Evasion of the payment of a fare of the system.

9 (2) Misuse of a transfer, pass, ticket, or token with the intent to
10 evade the payment of a fare.

11 (3) Playing sound equipment on or in a system facility or
12 vehicle.

13 (4) Smoking, eating, or drinking in or on a system facility or
14 vehicle in those areas where those activities are prohibited by that
15 system.

16 (5) Expectorating upon a system facility or vehicle.

17 (6) Willfully disturbing others on or in a system facility or
18 vehicle by engaging in boisterous or unruly behavior.

19 (7) Carrying an explosive or acid, flammable liquid, or toxic or
20 hazardous material in a system facility or vehicle.

21 (8) Urinating or defecating in a system facility or vehicle, except
22 in a lavatory. However, this paragraph shall not apply to a person
23 who cannot comply with this paragraph as a result of a disability,
24 age, or a medical condition.

25 (9) (A) Willfully blocking the free movement of another person
26 in a system facility or vehicle.

27 (B) This paragraph shall not be interpreted to affect any lawful
28 activities permitted or first amendment rights protected under the
29 laws of this state or applicable federal law, including, but not
30 limited to, laws related to collective bargaining, labor relations,
31 or labor disputes.

32 (10) Skateboarding, roller skating, bicycle riding, or roller
33 blading in a system facility, including a parking structure, or in a
34 system vehicle. This paragraph does not apply to an activity that
35 is necessary for utilization of a system facility by a bicyclist,
36 including, but not limited to, an activity that is necessary for
37 parking a bicycle or transporting a bicycle aboard a system vehicle,
38 if that activity is conducted with the permission of the agency of
39 the system in a manner that does not interfere with the safety of
40 the bicyclist or other patrons of the system facility.

1 (11) (A) Unauthorized use of a discount ticket or failure to
2 present, upon request from a system representative, acceptable
3 proof of eligibility to use a discount ticket, in accordance with
4 Section 99155, and posted system identification policies when
5 entering or exiting a system station or vehicle. Acceptable proof
6 of eligibility must be clearly defined in the posting.

7 (B) In the event that an eligible discount ticket user is not in
8 possession of acceptable proof at the time of request, an issued
9 notice of fare evasion or passenger conduct violation shall be held
10 for a period of 72 hours to allow the user to produce acceptable
11 proof. If the proof is provided, that notice shall be voided. If the
12 proof is not produced within that time period, that notice shall be
13 processed.

14 (c) (1) The City and County of San Francisco~~and~~, the Los
15 Angeles County Metropolitan Transportation Authority, *and the*
16 *Alameda-Contra Costa Transit District* may contract with a private
17 vendor for the processing of notices of fare evasion or passenger
18 conduct violation, and notices of delinquent fare evasion or
19 passenger conduct violation pursuant to Section 99581.

20 (2) For the purpose of this chapter, “processing agency” means
21 either of the following:

22 (A) The agency issuing the notice of fare evasion or passenger
23 conduct violation and the notice of delinquent fare evasion or
24 passenger conduct violation.

25 (B) The party responsible for processing the notice of fare
26 evasion or passenger conduct violation and the notice of delinquent
27 violation, if a contract is entered into pursuant to paragraph (1).

28 (3) For the purpose of this chapter, “fare evasion or passenger
29 conduct violation penalty” includes, but is not limited to, a late
30 payment penalty, administrative fee, fine, assessment, and costs
31 of collection as provided for in the ordinance.

32 (4) All fare evasion and passenger conduct violation penalties
33 collected by the processing agency in the City and County of San
34 Francisco shall be deposited to the general fund of the City and
35 County of San Francisco.

36 (5) All fare evasion and passenger conduct violation penalties
37 collected by the Los Angeles County Metropolitan Transportation
38 Authority shall be deposited in the general fund of the County of
39 Los Angeles.

1 (6) *All fare evasion and passenger conduct violation penalties*
2 *collected by the Alameda-Contra Costa Transit District shall be*
3 *deposited in the general fund of the district.*

4 (d) (1) If a fare evasion or passenger conduct violation is
5 observed by a person authorized to enforce the ordinance, a notice
6 of fare evasion or passenger conduct violation shall be issued. The
7 notice shall set forth the violation, including reference to the
8 ordinance setting forth the administrative penalty, the date of the
9 violation, the approximate time, and the location where the
10 violation occurred. The notice shall include a printed statement
11 indicating the date payment is required to be made, and the
12 procedure for contesting the notice. The notice shall be served by
13 personal service upon the violator. The notice, or copy of the
14 notice, shall be considered a record kept in the ordinary course of
15 business of the issuing agency and the processing agency, and
16 shall be prima facie evidence of the facts contained in the notice
17 establishing a rebuttable presumption affecting the burden of
18 producing evidence.

19 (2) When a notice of fare evasion or passenger conduct violation
20 has been served, the person issuing the notice shall file the notice
21 with the processing agency.

22 (3) If a person contests a notice of fare evasion or passenger
23 conduct violation, the issuing agency shall proceed in accordance
24 with Section 99581.